

ENTERED

December 14, 2022

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ADAM LEE, KIMBERLY EINIGER,
HOWARD ROSCOE, ANASTASIA
DANILOVA, KEITH COVINGTON, and
MYRA MENDEZ, on behalf of themselves
and others similarly situated,

Plaintiffs,

v.

SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendant.

Civil Action No. 4:21-cv-01321

ORDER

Before the Court is Defendant Samsung Electronics America, Inc.'s ("Defendant") Motion to Dismiss the First Amended Complaint. (Doc. 23.) On September 13, 2022, United States Magistrate Judge Dena Hanovice Palermo issued a Report and Recommendation ("R&R") recommending that the motion to dismiss be granted in part and denied in part. (Doc. 47.) Defendants filed objections to the R&R (Doc. 55), and Plaintiffs responded to the objections (Doc. 62). After Magistrate Judge Palermo issued her R&R, the Court granted Plaintiffs leave to file a Second Amended Complaint (Doc. 60), and Plaintiffs filed their Second Amended Complaint on November 7, 2022. (Doc. 61.) Because an amended complaint supersedes the prior complaint, it is hereby


ORDERED that Defendant's motion to dismiss the First Amended Complaint is **DENIED** as **MOOT WITHOUT PREJUDICE**;

It is further **ORDERED** that the R&R making recommendations as to the motion to dismiss the First Amended Complaint is moot and inoperative; provided, however, that nothing in this Order shall preclude Judge Palermo from reaching conclusions regarding Samsung's motion to dismiss the Second Amended Complaint similar to those expressed in the prior R&R, nor shall this Order preclude Judge Palermo from arriving at different conclusions; and

It is further **ORDERED** that Samsung's objections to the R&R are moot and inoperative, without prejudice to Samsung renewing its arguments in objections to any subsequent report and recommendation, which this Court shall review de novo.

IT IS SO ORDERED.

Signed at Houston, Texas on December 14 2022.



Keith P. Ellison
United States District Judge